

costs of survey and of suit; and dividends on all the claims so stated. But that the account was stated, subject to the following objections to particular claims. *James Deale's*, No. 3, and the bank's, No. 26, were founded on notes drawn by *William Warfield*, in favour of, and endorsed by the deceased to the present claimants. The bank's, No. 18, was on *John W. Clagett's* note, in favour of, and endorsed by the deceased to the present claimants. The bank's, Nos. 19, 20 and 25, were founded on notes of *D. Ridgely & Co.* in favour of, and endorsed by the deceased to the present claimants. The bank's, No. 21, was on *Warfield & Ridgely's* note, in favour of, and endorsed by the deceased to the present claimants. That those claims could not be allowed without proof of the insolvency of the drawers. That affidavits had been filed by the claimants, as evidence of such insolvency; which were deemed insufficient; because they spoke only from the belief of the deponents, and from general reputation. But individual opinion or general reputation, furnished no such clear evidence of the utter insolvency of the principal debtor, as to give to the creditor his equity against the estate of his surety. That the general testimony of the affidavit, that all process of writs of *fiери facias*, had been returned *nulla bona*, was not evidence of any return upon a judicial writ. That if any evidence, short of a discharge, under the insolvent laws, were admissible, there should be proof of *nulla bona* on executions issued by the claimants to collect the very debt then claimed; since the rule of the court required some evidence of the exercise of reasonable diligence on the part of the creditor, to enforce payment from the principal debtor; and did not permit the creditor to derive any assistance from the inconclusive acts of other creditors.

The auditor further said, that *George Wells'* claims, Nos. 39, 40, 41 and 42, were debts due from the deceased to *Warfield & Ridgely*, and *D. Ridgely & Co.*, and assigned by them to the present claimant. That the deceased had in his life-time, endorsed sundry notes drawn by the said firms, which remain unpaid, and were then exhibited as claims against the deceased's estate; but as the assignee should take subject to all the equities which might have been raised against the claims, in the hands of the original creditors, no part of said claims should be allowed until the deceased's estate has been indemnified against the said endorsements. The amount of the endorsed notes greatly exceeds the amount of the aforesaid claims. The auditor further said, that *A. & J. Miller's* claim, No.